TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. ~~1336~~ ~~944~~ ~~622~~ 316

MORRIS S. MILLER, PLAINTIFF IN ERROR,

vs.

ALFRED P. EDGERTON, JOHN H. OBERLY, AND CHARLES LYMAN, COMMISSIONERS UNITED STATES CIVIL SERVICE.

IN ERROR TO THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED JANUARY 21, 1888.

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IN ERROR TO THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Petition of right	1	1
Information	87	85
Civil service rules	89	85
Civil service regulations	111	92
Cause certified to general term	127	97
Judgment	128	97
Bond	129	97
Writ of error	130	98
Citation	130	98
Proof of service of writ of error and citation	131	99
Certificate to record	132	99

JUDD & DETWEILER, PRINTERS, WASHINGTON, MAY 2, 1888.

87 *Information. Filed Feb.* 5, 1887.

Be it remembered that Morris S. Miller, of the State of New York, in this behalf prosecuteth, and in his own behalf and in behalf of the United States of America and the people cometh here into court in his own proper person and gives the court to understand and saith—

That he is the relator; that he is a citizen of the State of New York and of the United States of America; that Alfred P. Edgerton, John H. Oberly, and Charles Lyman are in possession of the offices of commissioners under the act hereinafter mentioned, and are exercising the illegal powers hereinafter set forth, in the District of Columbia and elsewhere in the several States of the United States.

That by virtue of the provisions of an act entitled "An act to regulate and improve the civil service of the United States," enacted by the Senate and House of Representatives of the United States
88 of America in Congress assembled, approved January 16th, 1883, and since the time of the passage thereof the said Alfred P. Edgerton, John H. Oberly, and Charles Lyman were appointed by the President of the United States of America as Civil Service Commissioners, to constitute the United States Civil Service Commission; that the said commissioners have, since their appointment as aforesaid, organized, and have been and now are acting as such commissioners under such act for the purpose herein alleged, and are aiding and have aided the President as he may have requested in pursuance of the provisions of such act, and have promulgated and are enforcing certain rules prescribed and authorized by the act, and which rules the predecessors in office of said commissioners have aided the President in preparing as he requested, approved by the President, which are in the words and figures following, to wit:

89 *Civil Service Rules.*

In the exercise of the power vested in the President by the Constitution and by virtue of the 1753d section of the Revised Statutes and of the civil service act, approved January 16, 1883, the following rules for the regulation and improvement of the executive civil service are hereby promulgated:

Rule 1.

No person in said service shall use his official authority or influence either to coerce the political action of any person or body or to interfere with any election.

Rule 2.

No person in the public service shall for that reason be under any obligation to contribute to any political fund or to render any political service, and he will not be removed or otherwise
90 prejudiced for refusing to do so.

Rule 3.

It shall be the duty of collectors, postmasters, assistant treasurers, naval officers, surveyors, appraisers, and custodians of public buildings, at places where examinations are to be held, to allow and arrange for the reasonable use of suitable rooms in the public buildings in their charge, and for heating, lighting, and furnishing the same for the purposes of such examinations, and all other executive officers shall in all legal and proper ways facilitate such examinations and the execution of these rules.

Rule 4.

1. All officials connected with any office where or for which any examination is to take place will give the Civil Service Commission and the chief examiner such information as may be rea-
91 sonably required to enable the commission to select competent and trustworthy examiners, and the examinations by those selected as examiners and the work incident thereto will be regarded as a part of the public business to be performed at such office.

2. It shall be the duty of every executive officer promptly to inform the commission, in writing, of the removal or discharge from the public service of any examiner in his office or of the inability or refusal of any such examiner to act in that capacity.

Rule 5.

There shall be three branches of the service classified under the civil service act (not including laborers or workmen or officers required to be confirmed by the Senate) as follows:

1. Those classified in the departments at Washington shall be designated "the classified departmental service."

92 2. Those classified under any collector, naval officers, surveyor, or appraiser in any customs district shall be designated "the classified customs service."

3. Those classified under any postmaster at any post office, including that at Washington, shall be designated "the classified postal service."

4. The classified customs service shall embrace the several custom districts where the officials are as many as fifty, now the following: New York city, N. Y.; Boston, Mass.; Philadelphia, Pa.; San Francisco, Cal.; Baltimore, Md.; New Orleans, La.; Chicago, Ill.; Burlington, Vt.; Portland, Me.; Detroit, Mich.; Port Huron, Mich.

5. The classified postal service shall embrace the several post offices where the officials are as many as fifty, now the following: Albany, N. Y.; Baltimore, Md.; Boston, Mass.; Brooklyn, N. Y.; Buf-
falo, N. Y.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio;
93 Detroit, Mich.; Indianapolis, Ind.; Kansas City Mo.; Louisville, Ky.; Milwaukee, Wis.; Newark, N. J.; New Orleans, La.; New York city, N. Y.; Philadelphia, Pa.; Pittsburgh, Pa.; Providence, R. I.; Rochester, N. Y.; St. Louis, Mo.; San Francisco, Cal.; Washington, D. C.

Rule 6.

1. There shall be open competitive examinations for testing the fitness of applicants for admission to the service. Such examinations shall be practical in their character and, so far as may be, shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the branch of the service which they seek to enter.

2. There shall also be competitive examinations of a suit-
94 able character to test the fitness of persons for promotion in the service.

Rule 7.

1. The general examination under the first clause of rule 6 for admission to the service shall be limited to the following subjects:

1st. Orthography, penmanship, and copying.

2d. Arithmetic, fundamental rules, fractions, and percentage.

3d. Interest, discount, and elements of book-keeping and of accounts.

4th. Elements of the English language, letter-writing, and the proper construction of sentences.

5th. Elements of the geography, history, and government of the United States.

2. Proficiency in each of these studies shall be credited in
95 grading the standing of the persons examined in proportion to the value of a knowledge of such subjects in the branch or part of the service which the applicant seeks to enter.

3. No one shall be entitled to be certified for appointment whose standing, upon a just grading in the general examination, shall be less than sixty-five per centum of complete proficiency in the first three subjects mentioned in this rule, and that measure of proficiency shall be deemed adequate.

4. But for places in which a lower degree of education will suffice the commission may limit the examination to—

1st. Penmanship, copying, and orthography.

2d. The fundamental rules of arithmetic.

But no person shall be certified under this examination of
96 a less grading than sixty-five per centum on each subject.

5. The commission may also order examinations of a higher grade or upon additional or special subjects to test the capacity and fitness which may be needed in any special place or branch of the service.

8.

No question in any examination or proceeding by or under the commission or examiners shall call for the expression or disclosure of any political or religious opinion or affiliation, nor shall any discrimination be made by reason thereof if known, and the commission and its examiners shall discountenance all disclosure before either of them of such opinion by or concerning any appli-

cants for examination or by or concerning any one whose name is on any register awaiting appointment.

97 Rule 9.

All regular applications for the competitive examinations for admission to the classified service must be made on blanks in a form approved by the commission. All requests for such blanks and all applications for examinations must be addressed as follows:

1st. If for the classified departmental service, to the U. S. Civil Service Commission, Washington, D. C.

2d. If for the classified postal service, to the postmaster under whom service is sought.

3d. If for the classified customs service, to the head of either customs office in which service is sought. All officers receiving such applications will endorse thereon the date of the reception
98 thereof and transmit the same to the proper examining board of the district or office where service is sought, or, if in Washington, to the Civil Service Commission.

Rule 10.

Every examining board shall keep such records and such papers on file and make such reports as the commission shall require, and any such paper or record in the charge of any examining board or any officer shall at all times be open to examination as the commission shall direct, and upon its request shall be forwarded to the com-ission for inspection and revision.

Rule 11.

Every application, in order to entitle the applicant to ap-
99 pear for examination or to be examined, must state under oath the facts on the following subjects:

1. Full name, residence, and post-office address.
2. Citizenship.
3. Age.
4. Place of birth.
5. Health and physical capacity for the public service.
6. Right of preference by reason of military or naval service.
7. Previous employment in the public service.
8. Business or employment and residence for the previous five years.
9. Education.

Such other information shall be furnished as the commission
100 may reasonably require touching the applicant's fitness for the public service. The applicant must also state *that* the number of members of his family in the public service and where employed, and must also assert that he is not disqualified under section 8 of the civil service act, which is as follows:

"That no person habitually using intoxicating beverages to excess shall be appointed to or retained in any office, appointment, or employment to which the provisions of this act are applicable."

Rule 12.

1. Every regular application must be supported by proper certificates of good moral character, health, and physical and mental capacity for doing the public work, the certification to be in such form and number as the regulations of the commission shall pro-
101 vide; but no certificate will be received which is inconsistent with the tenth section of the civil service act.

2. No one shall be entitled to be examined for admission to the classified postal service if under sixteen or over thirty-five years of age, or to the classified customs service, or to the classified departmental service, if under eighteen or over forty-five years of age; but no one shall be examined for appointment to any place in the classified customs service, except that of clerk or messenger, who is under twenty-one years of age; but these limitations of age shall not apply to honorably discharged soldiers or sailors of the last war who are otherwise duly qualified.

Rule 13.

1. The date of the reception of all regular applications for
102 the classified departmental service shall be entered of record by the commission, and of all other regular applications by the proper examining boards of the district or office for which they are made, and applicants, when in excess of the number that can be examined at a single examination, shall be notified to appear in their order on their respective records; but any applicants in the several States and Territories for appointment in the classified departmental service may be notified to appear for examination at any place at which an examination is to be held, whether in any State or Territory or at Washington, which shall be deemed most convenient for them.

2. The commission is authorized in aid of the *appointment* among the States and Territories to hold examinations at places convenient for applicants from different States and Territories or for
103 those examination districts which it may designate and which the President shall approve.

Rule 14.

Those examined shall be graded and shall have their grade marked upon a register after those previously thereon, in the order of their excellence as shown by the examination papers, except that those from the same State or Territory may be entered upon the register together in the order of relative excellence to facilitate apo-tionment. Separate registers may be kept of those seeking to enter any part of the service in which special qualifications are required.

Rule 15.

The commission may give a certificate to any person ex-
104 amined, stating the grade which such person attained and the proficiency in the several subjects shown by the markings.

Rule 16.

1. Whenever any officer having the power of appointment or employment shall so request there shall be certified to him by the commission or the proper examining board four names for the vacancy specified, to be taken from those graded highest on the proper register of those in his branch of the service and remaining eligible, regard being had to the apportionment of appointments to States and Territories, and from the said four a selection shall be made for the vacancy.

2. Those specifications for the service at Washington shall be made in such order as to apportion, as nearly as may be practicable, the original appointments thereto among the States and
105 Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census.

3. In case the request for any such certification or any law or regulation shall call for those of either sex the four highest of that sex shall be certified; otherwise sex shall be disregarded in such certification.

4. No person on any register shall be certified more than three times to the same office in the customs or postal service or more than twice to any department of Washington, unless upon request of the appointing officer; nor shall any one remain eligible for more than one year upon any register; and no person while remaining eligible on any register shall be admitted to a new examination of the same grade.

Rule 17.

106 1. Every original appointment or employment in said classified service shall be for the probationary period of six months, at the end of which time, if the conduct and capacity of the person appointed have been found satisfactory, the probationer shall be absolutely appointed or employed, but otherwise be deemed out of the service.

2. Every officer under whom any probationers shall serve during any part of the probation provided for by these rules shall carefully observe the quality and value of the service rendered by such probationer, and shall report to the proper appointing officer in writing the facts observed by him, showing the character and qualifications of such probationer and of the service performed by him, and such reports shall be preserved on file.

3. Every false statement knowingly made by any person in his application for examination, and every connivance by him
107 at any false statement made in any certificate which may accompany his application, shall be regarded as good cause for the removal or discharge of such person during his probation.

Rule 18.

Every head of a department or office shall notify the commission of the name of every person appointed to or employed in the classified service under him (giving the date of the appointment and

the designation of the office or place) from those examined under the commission, and shall also inform the commission of the date of any rejection or final appointment or employment of any probationer, and of the promotion, removal, discharge, resignation, transfer, or death of any such person after probation.

108 Rule 19.

There are excepted from examination the following:

1. The confidential clerk or secretary of any head of a department or office.
2. Cashiers of collectors.
3. Cashiers of postmasters.
4. Superintendents of money-order divisions in post offices.
5. The direct custodian of money for whose fidelity another officer is under official bond; but these exceptions shall not extend to any official below the grade of assistant cashier or teller.
6. Persons employed exclusively in the secret service of the Government or as translators or interpreters or stenographers.

109 7. Persons whose employment is exclusively professional.

8. Chief clerks, superintendents, and chiefs of divisions or bureaus.

But no person so excepted shall be either transferred, appointed, or promoted, unless to some excepted place, without an examination under the commission. Promotions may be made without examination in offices where examinations for promotions are not now held until rules on the subject shall be promulgated.

Rule 20.

If the failure of competent persons to attend and be examined or the prevalence of contagious diseases or other sufficient cause shall make it impracticable to supply in due season for any appointment the names of persons who have passed a competitive examination, the appointment may be made of a person who has passed a

110 non-competitive examination, which examination the commission may provide for, but its next report shall give the reason for such resort to non-competitive examination.

Rule 21.

The Civil Service Commission will make appropriate regulations for carrying these rules into effect.

Rule 22.

Every violation by an officer in the executive civil service of these rules or of the 11th, 12th, 13th, or 14th sections of the civil service act relating to political assessments shall be good cause for removal.

That the commissioners, claiming the right and power, are enforcing under the provisions of said act and rules certain other

111 rules made and adopted by their predecessors in office, to wit:

Regulations.

The United — Civil Service Commission, acting under the authority of the civil service act of January 16, 1883, and the rules promulgated by the President, makes the following regulations:

Chief Examiner.

1. The chief examiner shall, as far as practicable, except when otherwise directed by the commission, attend the examinations held by the serveral boards of examiners. He shall take care to secure accuracy, uniformity, and justice in all their proceedings, which shall at all times be open to him, but leaving the duty of the examiners for making and grading those examined unimpaired.

The commission will, in its discretion, designate one of its own members or request the detail of a suitable person to super-
112 vise examinations whenever deemed needful.

2. He shall prepare and submit to the approval of the commission proper forms and questions. He shall take care that the rules and regulations are complied with, and bring every case of injustice and irregularity observed by him to the attention of the commission. He shall take such part as the commission shall assign him in the work at Washington. It shall be his duty to confer, from time to time, with the heads of the postal and customs offices which he officially visits concerning the regularity, sufficiency, and convenience of the examinations for the service under them, and also certain other rules and regulations directing and defining the duties of the officers of the Government to which said act relates with reference to the enforcement of the act and regulations aforesaid.

That the said Alfred P. Edgerton, John H. Oberly, and
113 Charles Lyman have taken possession of said offices and are in control thereof, and are now doing and have done all things necessary to carry the said act, rules, and regulations into effect.

That the said commissioners have been and now are executing all the powers and duties authorized by said act, and have claimed and are now claiming the right so to do; that the commissioners are, have been, and now do, under and by virtue of the said act and under color thereof, enforce all the provisions thereof and powers granted thereby, and the rules and regulations of the commissioners, or their predecessors in office, and claim the right of enforcing and supervising the enforcement of the said provisions and rules and regulations, including the tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth sections of said act, and do enforce the same and supervise the enforcement thereof.

That by reason of the acts and powers exercised by the
114 commissioners under the provisions of said act, and while they claim the right to do the acts and exercise the powers aforesaid, no person or citizen can be appointed or promoted to an office included in the civil service rules in any department of the

Government unless he has passed an examination under the said civil service act, by the said commissioners or their predecessors in office, or the persons appointed by them or by such predecessors, in accordance with the rules of said civil service, nor unless he belongs to the classes described in said rules and regulations.

That, aided and abetted by the said officers of the several departments mentioned in the said act, and for the purpose of exercising the illegal powers herein set forth and of carrying out the intents and purposes of the said act and under color thereof, the commissioners, claiming and exercising the powers aforesaid,
115 have caused and are now causing all persons in the several departments referred to in said act, rules, and regulations to be classified into the classes specified therein, into divisions, geographical, apportioned among the States and Territories upon the basis of the population thereof, and personal with reference to education, age, sex, family, location, and to the use of spirituous liquors by said persons seeking office, into divisions of classes whose fitness for office is tested and passed upon by said commissioners and examiners and boards appointed by the commissioners.

That the said commissioners have been claiming and exercising and do claim and exercise the right of examining the persons seeking office by themselves and by examiners, boards, and persons appointed by these commissioners or their predecessors in office, in divers cities in the several States of the United States and the District of Columbia, testing the fitness of persons for office
116 under the United States of America; that the commissioners have selected and now are selecting from the said classes exclusively persons whom the commissioners or the examiners or boards appointed by them shall deem fit such persons as they shall grade highest as the results of the competitive examinations herein set forth to fill the places, offices, and employments in the departments of the Government of the United States included in said act and in conformity therewith; that the commissioners and the boards and examiners have registered and graded and do register and grade the persons so examined, and the commissioners have issued and do issue certificates, which said certificates state the grade of the person so examined seeking employment, office, or promotion in the several departments of the Government of the United States aforesaid, and the commissioners, under color of the said act,
117 exercise and claim the right so to do.

And your relator further saith that the said commissioners claim the right under color of said act to enforce the rules and to supervise the enforcement thereof and do now enforce the said rules and so supervise their enforcement; that no person in the public service is for that reason under any obligations to render any political service, and that he will not be removed or prejudiced for refusing so to do; that there shall be open and competitive examinations to test the fitness of the citizens to be appointed to office under the provisions of the said act and the rules and regulations of said commissioners or their predecessors in office under color of said act; that notice shall be given by the appointing power to said com-

mission of the persons selected for appointment, of the rejec-
118 tions, of transfers, resignations, and removals in the several departments.

That the commissioners have and claim control and have the supervision of the examinations to test the fitness of persons seeking for office, as provided for in said act, rules, and regulations, and claim the right of such supervision; the commissioners do make investigations and do report to the President for transmission to Congress upon all matters touching the enforcement of the rules and regulations concerning those in public service in respect to the execution of the civil service act, and claim the right to make such investigations and to so report.

And your relator further saith that the commissioners claim the right and have exercised and do exercise the right and power to appoint and have subject to their control a chief examiner and some fifty or more departmental examiners and thirty ex-
119 amining boards in the District of Columbia and in divers cities and States of the United States for the purpose of examining and determining the capacity and fitness of citizens for the offices aforesaid, which examiners and boards are now aiding and abetting the commissioners in enforcing the rules aforesaid.

And he further saith that the said commissioners claim the right to supervise and enforce and do enforce and supervise the duties of the officers and persons in the public service of the United States mentioned in sections four and five of the act to regulate the civil service of the United States aforesaid, and to enforce the execution of the said act and rules hereinbefore set forth, and to supervise the enforcement thereof and do enforce the same, and do supervise the enforcement thereof, and claim the right to supervise and control and direct the officers mentioned in sections *sixth* and *seventh* of said civil service, and to see that the officers therein men-
120 tioned perform the duties and things therein directed, and do so supervise, control, and direct said officers, and do see that they perform such duties and things; that they have caused and directed and do cause and direct the departments and officers thereof to arrange in said classes the officers and employees in their department for the purposes of examination and selection by said commissioners in conformity with the act, rules, and regulations aforesaid.

And that the commissioners claim the right to enforce and do, under color of the statute aforesaid, enforce the rules or law that no person shall be appointed to any office in the departments mentioned or enter into any of said classes until he has passed examination in conformity with the rules and regulations of the commissioners or their predecessors in office; that no person using intoxicating bev-
erages to excess shall be appointed to any office to which the
121 provisions of said act are applicable.

And the relator further saith that the commissioners, under color of said act and the regulations, claim the right to enforce and do enforce the rule that no person making an appointment under this act shall receive any recommendation from any Senator or

member of the House of Representatives of the United States of America except at to the residence and the character of the applicant.

And your petitioner further saith that the commissioners, as he is informed and believes, have made from time to time certain other rules and regulations equally illegal and unconstitutional and claim the right and exercise the power so to do at their own will and pleasure.

That the commissioners, under color of the act aforesaid and the rules and regulations aforesaid, claiming the right to do so,
122 have limited and do limit the powers and have divested and do divest the Executive Department of the United States of its duties and responsibilities vested in it by the Constitution, limiting its power and choice of nomination to the persons presented to it by the commissioners, and prohibiting the said Executive Department from appointing any other citizen or person to office; that the commissioners have compelled and do compel the Executive Department and the officers thereof, under and by color of the act aforesaid, to submit the qualifications and fitness for the nominations of persons for the public service in the department aforesaid to them instead of to the heads of the departments, as required by the Constitution; that by reason of the powers and regulations and the acts of the commissioners, under color of the act aforesaid and the rights and powers which they exercise and claim the right to exercise as aforesaid, the Executive Department
123 cannot exercise its constitutional power to appoint, in its discretion, your relator or any citizen of the United States to offices of honor, trust, or profit under the United States in the departments to which said act relates without the approval and certificate of the commissioners or their predecessors in office and their boards and examiners aforesaid, whereby your relator is deprived of his rights under the Constitution.

And your relator further saith that the commissioners, under color of the said act, claim and exercise the right to supervise the conduct of the offices of the Government mentioned in the eleventh, twelfth, thirteenth, fourteenth, and fifteenth sections of the act of civil service aforesaid.

And your relator further saith that the commissioners claim the right to make new rules and regulations concerning the execution of the said act, and they or their predecessors in office have
124 made certain other rules and regulations which they enforce, and the enforcement whereof they supervise, whereby, among other things, the chief examiner is directed to see that rules and regulations of said commission are enforced and to bring all the irregularities to the attention of the commission, and also prescribing the duties of the head of each department concerning vacancies in office, and also with reference to the examination of applicants.

And your relator further saith that the commissioners aforesaid have, under color of the provisions of said act, usurped and exercised powers and are yet usurping the powers and duties hereinbefore set forth and which cannot legally be delegated to or vested in

them by the Congress of the United States, and that the Executive Department and the heads thereof have surrendered their
125 office duties and powers to the commissioners and are aiding and abetting them in enforcing the rules and exercising the powers aforesaid.

And your relator saith that by reason of the premises and the matters and things hereinbefore set forth he is injured and aggrieved and deprived of his constitutional and reserved rights as a citizen and one of the people of the United States of America, because the said commissioners, under color of the civil service law and the rules and regulations thereof, are usurping in divers ways the rights and powers vested in the Departments of the Government by the Constitution or reserved to the people and which Congress has no right or authority to delegate to them.

Whereupon, for himself and for the United States or the people, the said relator prays the consideration of the Court that this information may be filed, doth make suggestion and complaint
126 in the premises, and prays a writ of process of law against the said Alfred P. Edgerton, John H. Oberly, and Charles Lyman, the commissioners aforesaid, in this behalf to answer this Court, the relator, the United States of America, by what warrant they jointly and severally exercise or claim to exercise the right, powers, or do the duties, acts, or things set forth herein, and that a rule be made that this information be filed and that the commissioners aforesaid show cause before the court why the said information should not be filed and why the writ or process aforesaid or such other writ of process as the law and the justice of the case may require in accordance with the powers, duties, rules, and practice of the court should not issue in the premises.

MORRIS S. MILLER.

DISTRICT OF COLUMBIA, *ss:*

127 Morris S. Miller, of Alder Creek, in the county of Oneida and State of New York, being duly sworn, saith that the statements in the foregoing information are true as he verily believes.

MORRIS S. MILLER.

Subscribed and sworn to before me this 3d day of February, 1887.

R. J. MEIGS, *Clerk,*
By L. P. WILLIAMS,
Ass't Clerk.

Respectfully certified to the gen. term, to be heard there in the first instance.

W. S. COX, *J.*

Court Proceedings.

MONDAY, *January* 24, 1887.

Proceedings before the supreme court of the District of Columbia, sitting in general term, commencing on the fourth Monday, twenty-fourth day, of January, 1887.

128 Present: Justices Hagner and James; Mr. Chief Justice Cartter absent by reason of sickness.

* * * * * * *

MONDAY, *April* 4, 1887.

Session resumed pursuant to adjournment.
Present: Justices Hagner, James, and Merrick.

* * * * * * *

January Term, 1887. In General Term.

In the Matter of the Petition of MORRIS S. MILLER.

Upon consideration of the matter of this petition, after argument by counsel, it is by the court ordered and adjudged that the relief prayed by the said petitioners be refused and that the petition be, and the same is hereby, dismissed with costs.

By the court:
Ap'l 4, 1887.

A. B. HAGNER.

129 In the Supreme Court of the District of Columbia, the 3d day of January, 1888.

In the Matter of the Petition of MORRIS S. MILLER
vs.
ALFRED P. EDGERTON, JOHN H. OBERLY, and CHARLES LYMAN, Commissioners, &c. } Law. No. 27534.

In error.

Know all men by these presents that we, Morris S. Miller and Charles A. Mann, are bound unto the above-named Alfred P. Edgerton, John H. Oberly, and Charles Lyman in the sum of one hundred dollars, to be paid to the said Alfred P. Edgerton, John H. Oberly, and Charles Lyman and their successors in office; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this 3d day of January, 1888.

Whereas the above-named Morris S. Miller has prosecuted an appeal to the Supreme Court of the United States to reverse the decision rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is that if the above-named Morris S. Miller shall prosecute his said appeal to

effect and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

MORRIS S. MILLER. [SEAL.]
CHARLES A. MANN. [SEAL.]

Sealed and delivered in presence of—
FRANKLIN H. MACKEY.

Approved:
Jan'y 6, '88. A. B. HAGNER.

[Endorsed:] Filed Jan. 6, 1888. R. J. Meigs, clerk.

129½ I hereby certify that, in my opinion, the surety on the within bond is sufficient.
Jan'y 5th, 1888.

FRANKLIN H. MACKEY.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

On this 3d day of January, 1888, personally appeared before me Morris S. Miller, to me personally known and known to me to be the person who executed the foregoing instrument, and who acknowledged the same to be his act.

TIMOTHY GRIFFITH,
Clerk U. S. Circuit Court, Southern Dist. of New York.

130 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the chief justice and justices of the supreme court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Morris S. Miller, petitioner, and Alfred P. Edgerton, John H. Oberly, and Charles Lyman, Commissioners United States Civil Service, being No. 27534, at law, a manifest error hath happened, to the great damage of the said Morris S. Miller, as by his complaint appears, and, it being fit that the error, if any hath happened, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, therefore you are hereby commanded, if judgment be therein given, under your seal, distinctly and openly, to send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the United States, this 6th day of January, in the year of our Lord

1888, and of the Independence of the United States the one hundred and twelfth.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk.*

DISTRICT OF COLUMBIA, *To wit:*

To Alfred P. Edgerton, John H. Oberly, and Charles Lyman:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of the District of Columbia, wherein Morris S. Miller is plaintiff and you are defendant, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, so that speedy justice be done the parties in that behalf.

Witness E. F. Bingham, chief justice of the said supreme court of the District of Columbia.

E. F. BINGHAM,
Chief Justice.

131 [Endorsed:] No. 27534. Law. In matter of petition of Morris S. *Morris vs.* Alfred P. Edgerton *et al.*, commissioners, &c Writ of error and citation.

Served copy of the within writ of error & citation on Alfred P. Edgerton, John H. Oberly, & Charles Lyman, Commissioners United States Civil Service, Jan'y 11, 1888.

A. A. WILSON, *Marshal.*

132 AUTHENTICATION OF RECORD.

Clerk's Certificate.

CLERK'S OFFICE,
SUPREME COURT OF THE DISTRICT OF COLUMBIA.

I, Return J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals together constitute the record of the proceedings of said court in this cause.

Witness my hand and the seal of said court this 12th day of January, 1888.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk,*
By J. R. YOUNG,
Assistant Clerk.

Justice's Certificate.

I, E. F. Bingham, chief justice of said court, do certify the foregoing attestation by R. J. Meigs, clerk of the said court, to be in due form.